

California Health and Safety Code

HIV Case (121022) and CD4 Reporting (121023)

121022. (a) To ensure knowledge of current trends in the HIV epidemic and to ensure that California remains competitive for federal HIV and AIDS funding, health care providers and laboratories shall report cases of HIV infection to the local health officer using patient names. Local health officers shall report unduplicated HIV cases by name to the department.

(b) (1) Health care providers and local health officers shall submit cases of HIV infection pursuant to subdivision (a) by courier service, United States Postal Service express mail or registered mail, other traceable mail, person-to-person transfer, facsimile, or electronically by a secure and confidential electronic reporting system established by the department.

(2) This subdivision shall be implemented using the existing resources of the department.

(c) The department and local health officers shall ensure continued reasonable access to anonymous HIV testing through alternative testing sites, as established by Section 120890, and in consultation with HIV planning groups and affected stakeholders, including representatives of persons living with HIV and health officers.

(d) The department shall promulgate emergency regulations to conform the relevant provisions of Article 3.5 (commencing with Section 2641.5) of Chapter 4 of Title 17 of the California Code of Regulations, consistent with this chapter, within one year of the effective date of this section.

(e) Pursuant to Section 121025, reported cases of HIV infection shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(f) State and local health department employees and contractors shall be required to sign confidentiality agreements developed by the department that include information related to the penalties for a breach of confidentiality and the procedures for reporting a breach of confidentiality, prior to accessing confidential HIV-related public health records. Those agreements shall be reviewed annually by either the department or the appropriate local health department.

(g) No person shall disclose identifying information reported pursuant to subdivision (a) to the federal government, including, but not limited to, any agency, employee, agent, contractor, or anyone else acting on behalf of the federal government, except as permitted under subdivision (b) of Section 121025.

(h) (1) Any potential or actual breach of confidentiality of HIV-related public health records shall be investigated by the local health officer, in coordination with the department, when appropriate. The local health officer shall immediately report any evidence of an actual breach of confidentiality of HIV-related public health records at a city or county level to the department and the appropriate law enforcement agency.

(2) The department shall investigate any potential or actual breach of confidentiality of HIV-related public health records at the state level, and shall report any evidence of such a breach of confidentiality to an appropriate law enforcement agency.

(i) Any willful, negligent, or malicious disclosure of cases of HIV infection reported pursuant to subdivision (a) shall be subject

to the penalties prescribed in Section 121025.

(j) Nothing in this section shall be construed to limit other remedies and protections available under state or federal law.

121023. (a) Subject to subdivision (b), each clinical laboratory, as defined in Section 1206 of the Business and Professions Code, shall report all CD4+ T-Cell test results to the local health officer for the local health jurisdiction where the health care provider facility is located within seven days of the completion of the CD4+ T-Cell test.

(b) A clinical laboratory shall not be required to report a CD4+ T-Cell test result, as required by this section, if the clinical laboratory can demonstrate that the CD4+ T-Cell test result is not related to a diagnosed case of HIV infection.

(c) The clinical laboratory report with CD4+ T-Cell test results shall also include, if provided by the ordering health care provider, all of the following:

- (1) The patient's name.
- (2) The patient's date of birth.
- (3) The patient's gender.

(4) The name, telephone number, and address of the local health care provider that ordered the test.

(d) The clinical laboratory report with CD4+ T-Cell test results shall also include all of the following information:

(1) CD4+ T-Cell test results expressed as an absolute count (the number of lymphocytes containing the CD4 epitope per cubic millimeter) and, if available, the relative count (the number of lymphocytes expressing the CD4 epitope as a percentage of total lymphocytes).

- (2) The type of laboratory test performed.
- (3) The date the laboratory test was performed.
- (4) The name, telephone number, and address of the clinical laboratory that performed the test.
- (5) The laboratory CLIA number.
- (6) The laboratory report number.

(e) (1) Each local health officer shall inspect each clinical laboratory CD4+ T-Cell test report to determine if the test is related to a case of HIV infection.

(2) If the clinical laboratory CD4+ T-Cell test result is related to a case of HIV infection, the local health officer shall report the case of HIV infection or AIDS, as appropriate, to the State Department of Public Health within 45 days of receipt of the laboratory report.

(3) If the clinical laboratory CD4+ T-Cell test result is not related to a case of HIV infection, the local health officer shall destroy the laboratory CD4+ T-Cell test report.

(f) Pursuant to Section 121025, CD4+ T-Cell test reports shall not be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding.

(g) CD4+ T-Cell test reports shall be considered confidential public health records as defined in Section 121035.

(h) For the purposes of this section, "CD4+ T-Cell test" means any test used to measure the number of lymphocytes containing the CD4 epitope.